

REMARKS

Interview Summary

On October 16, 2003, the undersigned had a telephone interview with Examiner Marschel to discuss the Amendment and Remarks document filed October 10, 2003. At that time, no agreement was reached and the arguments submitted by Applicant were rejected by the Examiner.

An interview was conducted at the United States Patent and Trademark Office on December 9, 2003 to discuss the present application. Co-inventor Michael Natan and the undersigned were present at this meeting. In order to expedite prosecution of this case, Applicants agreed to amend the claims to further differentiate the invention from the prior art. At the same time, Applicants expressly maintained disagreement with the Examiner's pending rejection of the claims and specifically reserved the right to appeal the rejection of the then-pending claims in a related application. In light of this agreement, Applicants presented the Examiner with a series of potential claim amendments that included limitations that clearly differentiated the present invention from the prior art. Among these claims were both product-per-se claims and product-by-process claims. Examiner Marschel agreed to review both types of claims in a further submission without issuing an additional restriction requirement. Examiner Marschel also agreed to review this Supplemental Amendment and Remarks document prior to taking action on the Amendment and Remarks document filed October 10, 2003.

Claim amendments

Applicant acknowledges with thanks the Examiner's determination that claim 15 is allowed.

In the pending office action, claims 1-5, 7-10, 16, 17 and 87 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Kang et al., U.S. Patent No. 6,132,278, Claims 1-3, 7-9, 16, 17 and 87 were also rejected under 35 U.S.C. §103(a) over Swift et al., U.S. Patent No.

5,599,615. As described herein, Applicants believe claims 1-5, 7-10, 16, 17 and 87, as amended, are not obvious in light of Kang, et al, or Swift, et al.

Claim 1 has been amended herein to include further structural limitations that further differentiate the present invention from the prior art relied upon by the Examiner. The descriptor "rod-shaped" has been added to the claim, and the phrase "wherein the particle has a generally circular cross-section along its length, wherein the segment transitions are generally perpendicular to said length" has also been included into claim 1.

The definition of rod-shaped can be found in the specification at page 9, lines 22-27:

The particles of the invention are frequently referred to as being "rod" shaped. However, the cross-sectional shape of the particles, viewed along the long axis, can have any shape, and can change at different portions of the particle. Such cross-sections may be a circle, an oval, square, diamond or even tubular. In preferred embodiments of the invention, the cross section is a circle and the particles are "rod" shaped. Although the particles of the present invention may take many shapes, the sequential particles of the present invention are not spherical.

The additional limitation is supported in the Specification at page 9, lines 5-10:

In describing the scope of the particles of the present invention, reference should be made to Figure 1. This figure depicts diagrammatically 4 non-limiting possible shapes of the nanobar codes of the present invention. In these diagrams, each of the particles is comprised of 3 segments, A, B and C, and the dimension defined as the length is denoted x and the dimension defined as the width is denoted y. In each of these embodiments, the length is defined as the axis that runs generally perpendicular to lines defining the segment transitions, while the width is the dimension of the particle that runs parallel to the line defining the segment transitions. As can be seen in Figure 1C, the particle width can vary across the length of the particle, and in the same way the particle length may vary across the width of the particle. (emphasis added)

Neither of the references relied on by the Examiner describe segmented nanoparticles that are rod-shaped or that describe a particle "wherein the segment transitions are generally perpendicular to said length".

Claim 16 has been amended to depend from Claim 1.

In addition, new claims 88-96 have been introduced at this time. Independent claim 88 is a product-by-process type claim that is supported by Example 1 of the present application. Please note that step c) of this claim describes the release of a segmented

particle from a template that includes the new limitations introduced into claim 1. There is no disclosure in the Kang and Swift references of a process to yield a particle as so defined. Reconsideration is respectfully requested.

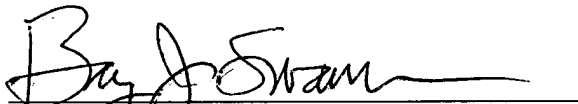
Closing Remarks

Applicant believes that the pending claims are in condition for allowance. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

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